

**IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE**

STATE OF TENNESSEE, <i>ex rel.</i>)	
ROBERT E. COOPER, JR., ATTORNEY)	
GENERAL AND REPORTER,)	
)	
Petitioner,)	
)	
v.)	No. _____
)	
DAVID DAIL doing business as SHADY,)	
VALLEY COUNTRY STORE,)	
)	
Respondent.)	

PETITION

The State of Tennessee, by and through Robert E. Cooper, Jr., the Attorney General and Reporter, (hereinafter "Attorney General"), at the request of Mary Clement, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, (hereinafter "Division") (collectively referred to as "State" or "State of Tennessee") files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 (hereinafter "the Act"), and respectfully shows the Court as follows:

1. The Division and the Attorney General, acting pursuant to the Act, have investigated certain acts and practices of David Dail doing business as Shady Valley Country Store of Shady Valley, Tennessee (hereinafter, "Respondent"). Upon completion of such investigation, the Division has determined that certain of Respondent's acts and practices, more specifically described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of

Tenn. Code Ann. § 47-18-104(a), and further that such acts and practices constitute violations of Tenn. Code Ann. § 47-18-104(b)(34).

2. Based upon the investigation of Respondent, upon information and belief, the State of Tennessee alleges the following:

(A) Respondent is in the business of operating a convenience store which offers for sale and sells various goods, including gasoline, to consumers.

(B) On September 13, 2008, Hurricane Ike struck land in Texas. Anticipation of this Hurricane and the damage resulting from the Hurricane led to shortages in the supply of gasoline in parts of the nation.

(C) On September 12, 2008, Respondent was advertising and selling regular unleaded gasoline for \$5.98 per gallon.

(D) The cost to Respondent of the regular unleaded gasoline sold on September 12, 2008 was \$3.63 per gallon.

(E) Respondent did not have a reasonable basis for this price differential, because a significant portion of the gas in the station's tank had already been purchased at a lower price.

(F) The amount of gasoline sold by Respondent at the unreasonable price was approximately one hundred eighteen (118) gallons.

(G) Respondent's conduct constitutes unfair and deceptive acts or practices.

3. Respondent neither admits nor denies the allegations of Paragraph 2 (A) - (G).

4. Upon completion of its investigation, the Division requested that the Attorney General negotiate, and if possible accept, an Assurance of Voluntary Compliance in accordance with the provisions set forth in Tenn. Code Ann. § 47-18-107.

5. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the Assurance of Voluntary Compliance filed contemporaneously herewith.

6. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

7. The Division, the Attorney General, and the Respondent have jointly agreed to the Assurance of Voluntary Compliance and join in its filing.

PREMISES CONSIDERED, the Petition, the State of Tennessee prays that:

1. This Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. The Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.*

Respectfully submitted,



ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 010934



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